

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DIGITAL MEDIA SOLUTIONS, LLC,)	CASE NO. 1:19-cv-00145
)	
Plaintiff,)	JUDGE DAN AARON POLSTER
)	
vs.)	MAGISTRATE JUDGE
)	THOMAS M. PARKER
SOUTHERN UNIVERSITY OF OHIO,)	
LLC, et al.)	
)	
Defendants.)	

**AGREED ORDER
SURRENDERING POSSESSION OF PREMISES
TO INTERVENING LANDLORD DOUGLAS EMMETT 2010, LLC,
RELIEVING INJUNCTION AND STAY AS TO CERTAIN LEASED PREMISES
AND THE LEASES AND RELATED RELIEF**

Upon consideration of the agreement of Mark E. Dottore, the receiver appointed in this case (the “Receiver”) under that certain *Order Appointing Receiver* dated January 18, 2019 [Doc #: 8], as amended) (the “Receiver Order”), Defendant Argosy Education Group, LLC (“AEG”) and Intervenor Douglas Emmett 2010, LLC, as evidenced by the signatures of their respective undersigned attorneys, the Court finds and orders as follows:

(1) Douglas Emmett 2010, LLC, as Landlord, and AEG, as Tenant, are parties to three Leases: (a) Office Lease for premises (Suite 400) at 1001 Bishop Street, ASB Tower, Honolulu, Hawaii 96813; (b) Office Lease for premises (Suite 138 and Storage 199) at 1003 Bishop Street, Pauahi Tower, Honolulu, Hawaii 96813; and (c) Storage Lease for premises (Storage S0034) at 1001 Bishop Street, ASB Tower, Honolulu, Hawaii 96813 (hereinafter the three above-described Leases are referred to collectively as the “Leases”). Copies of each of the Leases is attached to the *Unopposed Motion to Intervene of Douglas Emmett 2010, LLC* (Doc. #: 93) (the “Intervention Motion”), which the Court granted on March 5, 2019.

(2) AEG is a defendant in this case and is one of the subjects of the receivership under the Receiver Order.

(3) On February 1, 2019, Douglas Emmett 2010, LLC, through its attorneys in Honolulu, Hawaii, filed Complaints in Hawaii state court, specifically in the District Court of the First Circuit, Honolulu Division seeking, in addition to back rent and other money damages due and owing, restoration of the premises. Copies of each of the Complaints are attached to the Intervention Motion. Douglas Emmett 2010, LLC subsequently notified the Hawaii state court of the Receiver Order, and proceedings regarding the Hawaii state court Complaints are stayed.

(4) Douglas Emmett 2010, LLC also filed its Motion for Limited Relief from Stay Provisions of Order Appointing Receiver herein (Doc #: 95) and its Notice of Movant's Joinder in the Motion of 3601 Sunflower, LLC's Motion to Vacate Injunction and Receiver Order (Doc # 96).

(5) As of March 8, 2019, as reported by the Receiver during the hearing before this Court, the Receiver, AEG and Douglas Emmett 2010, LLC anticipated a sale transaction pursuant to which the purchaser would remain in possession of the premises subject to the Leases and Douglas Emmett 2010, LLC would dismiss its three Complaints for restoration of the premises and money damages.

(6) After the hearing before this Court on March 8, 2019, Douglas Emmett 2010, LLC and the Receiver learned that the anticipated sale transaction would not close and, as a result, AEG ceased operations in Honolulu and at the premises subject to the Leases effective 5:00 p.m. Hawaii time on March 8, 2019.

(7) Thereafter, officials of AEG in Honolulu informed Douglas Emmett 2010, LLC that AEG would voluntarily surrender possession of the premises subject to the Leases by Wednesday, March 13, 2019.

(8) In view of the above facts, the Receiver (on behalf of AEG), AEG and Douglas Emmett 2010, LLC have agreed to the relief set forth below, so that Douglas Emmett 2010, LLC may retake possession of the premises subject to the Leases. Accordingly, it is hereby

ORDERED that:

(1) Effective at 5:00 p.m. (Hawaii time) on March 13, 2019,

- (a) the Leased Premises shall be deemed surrendered voluntarily by AEG, as Tenant under the Leases to Douglas Emmett 2010, LLC, as Landlord;
 - (b) all injunctive provisions and stays contained in the Receiver Order (including, without limitation, paragraphs 9, 10, 14, and, to the extent applicable, 20), including as it has been or hereafter may be amended, hereby are relieved and terminated as against Douglas Emmett 2010, LLC with respect to the Leases and the premises subject to the Leases, such that, should it deem it necessary Douglas Emmett 2010, LLC may exercise and enforce any and all rights and remedies relating to the Leases as are provided or permitted under the Leases and applicable law, all the same as if the Receiver Order had never been entered (including, without limitation, prosecuting the summary possession actions that Douglas Emmett 2010, LLC commenced on February 1, 2019 described more fully above);
- (2) Douglas Emmett 2010, LLC shall reasonably cooperate with the Receiver (on behalf of AEG) and, as appropriate, AEG, regarding the orderly disposition of any removable personal property or any student records that remain at the premises subject to the Leases after the voluntary surrender in paragraph (1)(a) of this Order becomes effective;
- (3) Douglas Emmett 2010, LLC's Motion for Limited Relief from Stay Provisions of Order Appointing Receiver herein (Doc #: 95) and Notice of Movant's Joinder in the Motion of 3601 Sunflower, LLC's Motion to Vacate Injunction and Receiver Order (Doc # 96) are hereby withdrawn; and
- (4) This Court retains jurisdiction to enforce the terms and provisions of this Order.

IT IS SO ORDERED.




Thomas M. Parker, United States Magistrate Judge

Agreed and submitted by:

/s/ Peter Turner

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